

REMARKS

Status of the Claims

Claims 13-15 and 18-23 were pending for examination, claim 13 being independent.

Claim 24 is withdrawn.

Claim 13 is amended.

Claims 25 – 31 have been added.

After the present amendment, claims 13-15 and 18-23 and 25 - 31 are pending for examination, claim 13 being independent.

Election Affirmation

The Applicants affirm their election of Invention I (claims 13-16 and 18-23). As stated above, after this amendment, claims 13-15 and 18-23 and 25 - 31 are pending for examination.

Rejections under 35 U.S.C. 103

Claims 13-15 and 18-23 were rejected under 35 U.S.C. 103 over U.S. Patent No. 6,491,697 to Clark (hereinafter “Clark”) in view of U.S. Patent No. 6,010,510 to Brown (hereinafter “Brown”).

The Examiner alleges that Clark discloses all elements of claim 13 except a second segment connected to a third segment at a transition point, the transition point characterized by a discrete change in taper. However, the Examiner alleges that Brown discloses, in FIG. 4, an IOL injector comprising, a tip comprising a third segment having a constant diameter, a second segment having a taper located on the outer surface and a taper located on the inner surface of bore 16. The Examiner further alleges that it would have been obvious to one of ordinary skill in the art to optimize the lengths of slots 121 to extend through the second segment to ensure that the IOL gradually returns to its original shape before being released into the eye to avoid complications of injuring the eye. The Examiner cites U.S. Patent No. 6,056,757 to Feingold as extrinsic evidence of such a slot configuration. The Applicants respectfully disagree with some of the Examiner’s allegations and disagree that claim 13 is obvious in view of the cited art.

The Applicants agree that Clark fails to disclose “An injector ... comprising ... at least one slot extending from the open end through the second segment and the third segment, the third segment connected to the second segment at a transition point, the transition point characterized by a discrete change in taper,” as recited in claim 13 prior to amendment (and now recited in dependent claim 25). Furthermore, none of the art of record shows such transition point having a change in

taper, as recited in claim 13 as amended herein. The Applicants further point out that Brown does not disclose a slot of any kind extending from the open end.

Without acceding the properness of the combination of Clark and Brown, the Applicants address the Examiner's allegation that it would have been obvious to one of ordinary skill in the art to optimize the lengths of slots (i.e., "slots 121" of Clark) to extend through a second segment of an apparatus formed by a combination of the apparatus of Clark and Brown to ensure that the IOL gradually returns to its original shape before being released into the eye to avoid complications.

The Applicant does not deny slots were known. In fact, even Clark discloses that the slits 121 (i.e., slots) permit lateral expansion of the lens prior to release into the eye (col. 6, lines 35-36). Clark further discloses that, as a result of such expansion, the natural resilience which biases the lens to assume its original uncompressed shape is dissipated in the controlled environment of the cannula (col. 6, lines 37-38 of Clark). However, none of Clark, Brown or Feingold disclose "An injector ... comprising ... at least one slot extending from the open end through the second segment and the third segment, the third segment connected to the second segment at a transition point, the transition point characterized by a change in taper," as recited in claim 13. In fact Feingold, like Clark, shows a slot extending across only a single segment, with no change in taper.

Further, regarding the Examiner's allegation that it would have been obvious to one of ordinary skill in the art to optimize the lengths of slots 121 to extend through the second segment to ensure that the IOL gradually returns to its original shape before being released into the eye to avoid complications, the Applicants note that none of the art of record suggests such a configuration. Rather, as stated above, Clark and Feingold both teach a slot that extends into a single segment to achieve the motivation stated by the examiner (i.e., gradual return of the IOL to its original shape before it is released into the eye). The Examiner's allegation that such a configuration is "an optimization" is without support from any of the art of record. Accordingly, there is no teaching of the modification (i.e., optimization) proposed by the Examiner.

Therefore, claim 13 is patentable over the combination of Clark and Brown.

Claims 14, 15 and 18-23 depend from claim 13 and are patentable for at least the same reasons as claim 13. Withdrawal of the rejections of claims 13-15 and 18-23 is respectfully requested.

New claims 25-31 depend from claim 13, and are also patentable for at least the same reasons as claim 13.

It is believed that all claims are now in condition for allowance, early notice of which would be appreciated. The Examiner is urged to contact the undersigned to resolve any remaining issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. B. Powers', written over the word 'submitted'.

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